

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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KENNEDY GEORGE,

Plaintiff,

VERIFIED COMPLAINT

-against-

ELMORE JOHN, 484 EMERALD STREET LLC,
484 EMERALD LLC, LEGACY ASSET MANAGEMENT
CAPITAL LLC, OCKY MANAGEMENT LLC,
MICHAEL J. HALL A/K/A MICHAEL HALL, IGIT
REAL ESTATE HOLDING CORP., ALCODE REALTY
CORP., FANNIE MAE, AS TRUSTEE FOR FANNIE
MAE REMIC TRUST, JP MORGAN CHASE, N.A.,
WILSHIRE CREDIT CORP“JOHN AND/OR JANE
DOES 1-10” and “ABC ENTITIES 1-10”,

Defendants.

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Plaintiff KENNEDY GEORGE by his attorney, The Law Office of R. Joseph Coryat, PC.,
as and for his verified complaint against the above-named defendants, allege as
follows:

NATURE OF ACTION

1. This action is brought pursuant to RPAPL Article 15 to compel the determination of claims to the real property described herein based on Plaintiff's claim of adverse possession.
2. The subject real property is known as and located at 484 Emerald Street, Brooklyn, New York, County of Kings, City and State of New York. (Block: 4472 Lot:13) and shall hereinafter be referred to as the "subject premises" and/or the "adversely possessed premises". (See Exhibit 1- Legal Description)

PARTIES

3. At all times mentioned herein, Plaintiff was and still is a resident of the County of Kings, State of New York.
4. At all times mentioned herein, upon information and belief, Defendant Elmore John is a natural person and was and still is a resident of the County of Kings, State of New York.
5. At all times mentioned herein, Defendant 484 EMERALD STREET LLC was and still is a Domestic Limited Liability Company organized and existing pursuant to New York State law.
6. At all times mentioned herein, Defendant 484 EMERALD LLC was and still is a Domestic Limited Liability Company organized and existing pursuant to New York State law.
7. At all times mentioned herein, Defendant LEGACY ASSET MANAGEMENT CAPITAL LLC was and still is a Foreign Limited Liability Company organized and existing pursuant to Delaware State law and duly authorized to conduct business within the State of New York.
8. At all times mentioned herein, Defendant OCKY MANAGEMENT LLC was and still is a Domestic Limited Liability Company organized and existing pursuant to New York State law.
9. At all times mentioned herein, upon information and belief, Defendant MICHAEL HALL A/K/A MICHAEL J HALL is a natural person and was and still is a resident of the County of Kings, State of New York.

10. At all times mentioned herein, upon information and belief, Defendant IGIT REAL ESTATE HOLDING CORP ("IGIT") was a Domestic Business Corporation organized pursuant to New York State law, deemed inactive by the New York State Division of Corporations, dissolved by proclamations, with an annulment of authority dated July 28, 2010.
11. At all times mentioned herein, upon information and belief, Defendant ALCODE REALTY CORP ("ALCODE") was a Domestic Business Corporation organized pursuant to New York State law, deemed inactive by the New York State Division of Corporations, dissolved by proclamations, with an annulment of authority dated March 25, 1992.
12. At all times mentioned herein Defendant FANNIE MAE ("FNMA"), AS TRUSTEE FOR FANNIE MAE REMIC TRUST, is a nationally chartered corporation.
13. At all times mentioned herein Defendant WILSHIRE CREDIT CORPORATION ("WILSHIRE"), was and is a Foreign Corporation authorized to conduct business within the State of New York.
14. At all times mentioned herein Defendant JP MORGAN CHASE, N.A. ("CHASE"), was and is a Foreign Corporation authorized to conduct interstate business and business within the State of New York.
15. Upon information and belief Defendant CHASE, is the servicer and has agency under power of authority for FNMA and WILSHIRE.

FACTUAL BACKGROUND

16. The Plaintiff entered the subject premises and has remained in adverse possession of the subject premises since on or about January 2006.
17. The Plaintiff established such hostile claim of land by changing the character of the land, by clearing and backfilling the premises.
18. The Plaintiff established such hostile claim of land by removing items, including construction materials, without permission.
19. The Plaintiff established such hostile claim of land by removing items, including construction materials, without permission.
20. The Plaintiff established such hostile claim of land by at various times, during the statutory adverse possession period, having guard dogs intended to prevent others from entering the premises.
21. The Plaintiff established such hostile claim of land by removing an existing chain link fence, without permission, from the premises and replacing it with a wooden fence and boarded and concrete barriers at and around the subject premises.
22. The Plaintiff exercised claim of title to real property by adverse possession and under claim of right by removing an existing chain link fence, without permission, from the premises and replacing it with a wooden fence and boarded barrier at and around the subject premises to set an actual, open and notorious boundary intended to exclude all others from the subject premises.
23. The Plaintiff exercised claim of right to real property by adverse possession under claim of right by removing an existing chain link fence, without permission, from the premises and replacing it with a wooden fence and boarded barrier at and around the

subject premises to set an actual, open and notorious boundary intended to exclude all others from the subject premises.

24. The Plaintiff exercised claim of title to real property by adverse possession under claim of right by removing an existing chain link fence, without permission, from the premises and replacing it with a wooden fence and boarded and concrete barrier at and around the subject premises to set an actual, open and notorious boundary intended to exclude all others from the subject premises.

25. The Plaintiff exercised claim of title to real property by adverse possession under claim of right by placing or causing his property consisting of large trucks and vehicles to be kept and maintained on the premises.

26. The Plaintiff exercised claim of title to real property by adverse possession under claim of right by storing no less than 8 large trucks and vehicles to be kept and maintained on the premises.

27. The Plaintiff exercised claim of title to real property by adverse possession under claim of right by storing trucks and vehicles on the premises including box trucks, a backhoe, a plow truck, a 40' trailer, and ambulance, a utility truck with a crane, a dump truck, bulldozer, tractor, forklift and large equipment such as a lift jack.

28. The Plaintiff actually asserted his right to the property in a manner that would be adverse to a true title owner and also in opposition to the rights of a true owner.

29. The Plaintiff's acts are and were sufficiently open to put a reasonably diligent owner on notice.

30. The Plaintiff's claim is actual where the Plaintiff has physically remained in possession of the subject premises during the statutory period prescribed under RPAPL Article 5.

31. The Plaintiff's claim is actual where the Plaintiff has exercised actual complete dominion and control of the subject premises.
32. The Plaintiff's claim is actual as the claim of right is not founded upon a written instrument and is based on continuous and exclusive use of the subject premises.
33. The Plaintiff's use of the premises is open and notorious.
34. The Plaintiff's erected fence is approximately 7' in height, and is open, obvious and notorious from without the premises.
35. The Plaintiff's larger vehicles are stored openly, notoriously and conspicuously, on the premises and due to their large size they are visible from without the premises.
36. The Plaintiff has maintained exclusive and continuous possession of the subject premises for the statutory period of 10 years (RPAPL Article 5) and during such period has alone cared for and/or improved the premises as his own.
37. The Plaintiff has maintained exclusive and continuous possession of the subject premises since on or about January 2006 and since that time has alone cared for and/or improved the premises as his own.
38. That such adverse possession commenced by the Plaintiff prior to the amendment of the RPAPL Article 5 relative to adverse possession in 2008.
39. That as laws cannot be applied retroactively determination of real property rights herein should be based on the year that the adverse possession commenced.
40. The Plaintiff's use of the subject premises has been exclusive and separate from general and/or public use.

41. The Plaintiff's occupation of the subject premises is (1) hostile and under a claim of right (2) actual, (3) open and notorious, (4) exclusive, and (5) continuous for the statutory period.
42. The Plaintiff has never consented to remove himself or to be removed from the subject premises.
43. The Plaintiff has never sought the permission on any alleged or true owner of the subject premises to occupy those premises.
44. The Plaintiff's actions related to occupancy of the subject premises would require a true owner to seek a determination of real property rights under RPAPL Article 15.
45. The Plaintiff's actions related to occupancy of the subject premises would require a true owner to commence legal proceedings to remove the Plaintiff from the subject premises.
46. The Plaintiff's actions related to his exercise of complete dominion and control of the subject premises would require a true owner to commence legal proceedings to remove the Plaintiff from the subject premises.
47. In January 2006, the Plaintiff entered into and has been in continual, uninterrupted occupation and possession adversely of the land which is situated entirely within the County of *Kings* and is described hereinafter in the annexed Legal Description (*See Exhibit 1*)
48. Plaintiffs' possession of the subject Premises has been and is under an adverse possession not under written instrument or judgment, and has been and is adverse, under claim of right, exclusive of any other right, and open and notorious, continuous,

exclusive, and actual, for more than 10 years prior to the commencement of this action, and such possession continues to the present time.

49. Plaintiffs have cultivated and improved the adversely possessed premises, and there have been acts sufficiently open to put a reasonably diligent owner on notice, for more than ten (10) years prior to the commencement of this action.

50. For more than ten (10) years prior to the commencement of this action, plaintiffs have protected the adversely possessed premises by a substantial enclosure.

51. Defendants claim or may claim to have or it appears by the public records that they may claim some estate or interest in the adversely possessed premises which belongs to the Plaintiff.

52. Recently, over the objections of the Plaintiff, defendants have threatened to and in fact encroached, trespassed and caused damage to the adversely possessed premises and have disturbed and interfered with plaintiff's quiet enjoyment thereof, but plaintiff alleges that all claims which defendants may advance as to the adversely possessed subject premises are invalid, and that all claims have been extinguished and barred by the acts which have continued for a period in excess of that required by statute for the vesting of title through adverse possession and that plaintiffs are seized and possessed of the subject premises free from any and every such claim or demand.

53. All defendants are known and none are an infant, mentally retarded, mentally ill or an alcohol abuser.

54. There are no persons not in being or ascertained at the commencement of this action who by any contingency contained in a devise or grant or otherwise, could afterward become entitled to a beneficial estate or interest in the property involved in this action,

and any judgment rendered herein adjudging plaintiffs to be vested with an absolute title in fee simple will not and may not affect any such person not in being or not ascertained at the time of the commencement of this action.

55. No personal claim is made against any defendants other than a defendant who shall assert a claim adverse to the claim of plaintiffs as set forth in the complaint herein.

WHEREFORE, plaintiff demands judgment that:

Defendants and all persons claiming under them be barred from all claim to an estate or interest in the Adversely Possessed Premises more particularly described in paragraph 2 of this complaint;

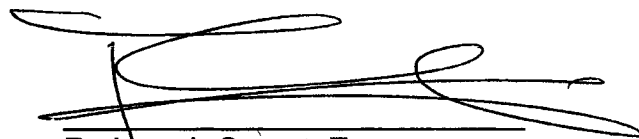
Plaintiffs is the lawful owner and is or should be vested with an absolute title in fee simple to the adversely possessed premises more particularly described in paragraph 2 of this complaint;

The sole and complete possession of the adversely possessed premises more particularly described in paragraph 2 of this complaint be awarded to plaintiff and that plaintiff remains in possession thereof;

Defendants be directed to abandon threats regarding their encroachment, trespass, damage, possession, ownership and/or control of the adversely possessed premises more particularly described in paragraph 2 of this complaint, and that defendants be permanently barred and enjoined from in any way directly or indirectly interfering with plaintiff's quiet enjoyment of the adversely possessed premises; and

The Court grant plaintiff such other and further relief as it may deem just and proper, together with the costs and disbursements of this action and reasonable attorneys' fees.

**Dated: Uniondale, New York
October 23, 2019**



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SUMMONS AND COMPLAINT

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